

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

CIVIL ACTION No.: 05-CV-10488-JLA

TIMOTHY HILLS,	)	
Plaintiff,	)	
	)	
VS.	)	
	)	
TOWN OF STOUGHTON	)	
Defendant.	)	
	)	

**PLAINTIFF’S ASSENTED TO MOTION FOR LEAVE OF COURT TO  
AMEND COMPLAINT TO ADD INDIVIDUAL DEFENDANTS**

1. The Plaintiff, Timothy Hills (hereinafter referred to as “plaintiff”), moves this Honorable Court to grant plaintiff leave of court to amend the original Complaint filed in this matter under the Federal Rule of Civil Procedure 15(a).
2. The plaintiff states that this motion should be allowed as under Federal Rule of Civil Procedure 15 (a) as the rules allows for amendments to be “freely given when justice so requires.”
3. In support of this motion, plaintiff relies on the pleadings in this action, the accompanying motion and the Amended Complaint.
4. LR 7.1 Certification: I hereby certify that I have conferred with opposing counsel in a good faith effort to seek concurrence in this motion and defense counsel has assented to this motion.

Respectfully Submitted,

On Behalf of the Plaintiff,

By His Attorneys,

COLUCCI, COLUCCI, MARCUS & FLAVIN, P.C.

/s/ Sarah F. Jubinville  
Sarah F. Jubinville  
BBO#662238  
552 Adams Street  
Milton, MA 02186  
(617) 698-6000  
sjubinville@coluccilaw.com

Dated: September 3, 2005

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

CIVIL ACTION No.: 05-CV-10488-JLA

TIMOTHY HILLS,	)	
Plaintiff,	)	
	)	
VS.	)	
	)	
TOWN OF STOUGHTON	)	
Defendant.	)	
	)	

**PLAINTIFF’S ASSENTED TO MOTION FOR LEAVE OF COURT TO  
AMEND COMPLAINT TO ADD INDIVIDUAL DEFENDANTS**

Now comes the Plaintiff in the above captioned matter and pursuant to Federal Rule of Civil Procedure 15(a), requests this Honorable Court to grant the Plaintiff leave of court to amend his Complaint, as attached hereto as Exhibit A, adding David M. Cohen and Manuel Cachopa, as individual defendants in this action.

In support thereof, the Plaintiff states that it appears that David M. Cohen was a sergeant for the Stoughton Police Department at relevant and material times that are the subject of the Plaintiff’s Complaint and may be liable for torts committed while he was employed by the Stoughton Police Department.

Also in support thereof, the Plaintiff states that it appears that Manuel Cachopa was the Chief of Police of the Stoughton Police Department at relevant and material times that are the subject of the Plaintiff’s Complaint and may be liable for torts committed while he was employed by the Stoughton Police Department.

Federal Rule of Civil Procedure 15(a) provides that leave to amend the Complaint “shall be freely given when justice so require.” Additionally, this motion

has been assented to by counsel for the defendant, the Town of Stoughton. In this matter both David M. Cohen and Manuel Cachopa should be added so that both parties can receive complete and just adjudication of their claims and defenses. There has been no discovery conducted between the parties in this matter and there are no motions pending at this point in time. Additionally, the only event scheduled in this matter currently is a scheduling conference on October 5, 2005 before this Honorable Court.

The plaintiff also submits that under Federal Rule of Civil Procedure 15(c)(2) this amendment to the original Complaint relates back to the date of the original filing because “the claim asserted in the amended pleading arose out of the conduct, transaction, or occurrence set forth or attempted to be set forth in the original pleading.” Therefore, since the original Complaint was filed on December 9, 2004, the amendment requested by the plaintiff relates back to this date in time.

WHEREFORE, the Plaintiff respectfully requests that the Plaintiff’s Assented to Motion for Leave of Court to Amend Complaint to Add Individual Defendants Pursuant to Federal Rule of Civil Procedure 15(a) be granted as to attached Exhibit A.

Respectfully Submitted,

On Behalf of the Plaintiff,

By His Attorneys,

COLUCCI, COLUCCI, MARCUS & FLAVIN, P.C.

/s/ Sarah F. Jubinville  
Sarah F. Jubinville  
BBO#662238  
552 Adams Street  
Milton, MA 02186  
(617) 698-6000  
sjubinville@coluccilaw.com

Dated: September 3, 2005

**CERTIFICATE OF SERVICE**

I, Sarah F. Jubinville, attorney for the plaintiff, Timothy Hills, in the above action, hereby certify that on the 3<sup>rd</sup> day of September, 2005, I filed this Assented to Motion for Leave of Court to Amend the Plaintiff's Complaint electronically with the Court, which constitutes service under the Local Rules upon the following counsel:

Charles D. Mulcahy, Esq.  
Wynn & Wynn, P.C.  
90 New State Highway  
Raynham, MA 02767

/s/ Sarah F. Jubinville  
Sarah F. Jubinville  
BBO#662238  
552 Adams Street  
Milton, MA 02186  
(617) 698-6000  
sjubinville@coluccilaw.com